

CAAS II QUARTERLY NEWSLETTER

APRIL 2003

Evaluating CAAS II Task Order Proposals

Evaluation of task order proposals is intended to be a simple and quick process. However, there are certain guidelines that must be followed when evaluating proposals. The Contracting Officer (CO) uses your technical evaluation to conduct mandatory debriefings. I will explain the evaluation process below.

The Evaluation Guide, Nov 02, was developed to walk you through the evaluation process. The guide can be accessed from our website. The guide has templates that you must complete. There are three templates for each factor;

Factor 1: Type of personnel and proposed labor

Hours

Factor 2: Experience of proposed personnel

Factor 3: Proposed approach

The next template is for documenting the proposal risk. Proposal risk assesses the risks and weaknesses associated with the offeror's proposed approach as it relates to accomplishing the requirements of the SOW.

The next template documents the summary of the evaluation. Finally, you must complete the award recommendation template. One important note, when awarding to other than the low offeror, you must clearly show what additional benefit the government receives from paying a higher price. Your evaluation is key to supporting the award and critical to the CO's debriefing of unsuccessful offerors.

The CO is required to debrief each contractor on the strengths and weaknesses of their proposal if requested. I use your evaluation to conduct this debriefing. Please remember that your evaluation comments can become public.

QAE Roles and Responsibilities

The QAE is a critical and vital link in the contracting process. They are the ones who monitor and certify contractor's performance. Some of the QAE's more important roles and responsibilities are outlined below.

The Contracting Officer appoints the QAE to a particular task order after they have been properly trained. This training can be accessed from our website. The training must be completed and documented prior to the performance of QAE duties.

Some of the more important functions of the QAE are:

1. Ensure the contractor's compliance with the technical requirements of the contract.
2. Review monthly invoices for acceptance of services/hours billed.

The QAE cannot:

1. Make any changes in the contract or task order.
2. Interpret the contract for the contractor.

As mentioned above, the QAE reviews monthly invoices for acceptance of services/hours billed. The QAE will receive a monthly invoice at the same time the Contracting Office receives the invoice. The QAE should complete the Certificate of Service (COS) as soon as the invoice is received. An example of the COS can be found on our website. Under the Prompt Payment Act, an interest penalty is assessed for any valid invoice not paid in 30 days or less. The invoice is valid unless it's rejected by the Contracting Officer. You

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A Contracting Officer's Opinion of Competition

10 U.S.C.2304 and 41 U.S.C.253 require, with certain limited exceptions, that contracting officers promote and provide for full and open competition in soliciting offers and awarding Government contracts. Without exception, competition always results in a lower price. In a time of limited resources and dwindling budgets, requiring activities must continuously search for ways to reduce costs.

As the cost of service contracts continues to rise, more and more activities are forced to reduce services or absorb the increase. One question that I'm always asked is how to reduce the escalating cost of these contracts, and my answer is that competition reduces cost. There are limited circumstances where we waive the competition requirement. In the case of the CAAS II contract, we can issue follow-on orders to the same contractor for the same requirement if the requirement was originally competed. This is referred to as a logical follow-on. We can also include options on CAAS II task orders.

The CAAS II contract is a multiple award contract with six contractors. When ordering under this contract, we must ensure a fair opportunity is provided for all contractors. However, there are circumstances where you can limit fair opportunity. These are listed under FAR Part 16.505. They are:

- (1) The agency need for the supplies or services is so urgent that providing a fair opportunity would result in unacceptable delays;
- (2) Only one awardee is capable of providing the supplies or services required at the level of quality required because the supplies or services ordered are unique or highly specialized;
- (3) The order must be issued on a sole-source basis in the interest of economy and efficiency as a logical follow-on to an order already issued under the contract, provided that all awardees were given a fair opportunity to

End of Year Planning

Two things you need to know about end of year planning; when to deobligate excess funds and when to plan for FY04 requirements?

1. When to deobligate excess funds? The time to look at the expenditure rate on your task order for possible deobligation is the last quarter of FY03--July. This will give the system time to work. Basically, we must prepare a deobligation modification. Then the funds must flow back to the origination point. At this point, the funds will be available for other obligations.

2. When do I plan for FY04 Requirements? You should have your FY04 CAAS II requirements identified and to contracting as soon as possible but NLT the 1st week in August. A complete package consists of a planning form, a Statement of Work,

Monitoring the Burn Rate

It is absolutely critical to know at all times the expenditure rate on your task orders. This is really vital during the last quarter of the fiscal year when you may need to deobligate excess funds.

It's important to remember the lead time needed to deobligate funds. It is highly recommended that you evaluate the burn rate on your task order and request deobligation of any excess funds during the first month of the last quarter of the fiscal year (July).

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Personal Vs Non-Personal Services Contracts

One aspect of services contracts that everyone should understand is the difference between personal and non-personal services contracts. I will explain the definition and criteria of a personal services contract, the restrictions placed on contracting for personal services and how to contract for personal services. FAR Part 37.104 does a good job of explaining personal services contracts.

A personal services contract is characterized by the employer-employee relationship it creates between the Government and the contractor's personnel. The Government is normally required to obtain its employees by direct hire under competitive appointment or other procedures required by the civil service laws. An employer-employee relationship under a service contract occurs when, as a result of (1) the contract's terms or (2) the manner of its administration during performance, contractor personnel are subject to the relatively continuous supervision and control of a Government officer or employee. However, giving an order for a specific article or service, with the right to reject the finished product or result, is not the type of supervision or control that converts an individual who is an independent contractor (such as a contractor employee) into a Government employee.

Obtaining personal services by contract, rather than by direct hire, circumvents civil service laws unless Congress has specifically authorized acquisition of the services by contract. Agencies shall not award personal services contracts unless specifically authorized by statute (e.g., 5 U.S.C.3109) to do so. A contract for non-personal services can easily turn to a personal services contract by the actions of the parties involved in the contract. Here's a list that normally is related to a personal services contract. Remember a personal services contract can only be authorized by law.

- Performance on site.
- Principal tools and equipment furnished by the Government.
- Services are applied directly to the integral effort of agencies or an organizational subpart in furtherance of assigned function or mission.
- Comparable services, meeting comparable needs, are performed in the same or similar agencies using civil service personnel.
- The need for the type of service provided can reasonably be expected to last beyond 1 year.
- The inherent nature of the service, or the manner in which it is provided, reasonably requires directly or indirectly,

Government direction or supervision of contractor employees in order to --

- Adequately protect the Government's interest;
- Retain control of the function involved; or
- Retain full personal responsibility for the function supported in a duly authorized Federal officer or employee.

As you can see many contracts that are classified as non-personal services can easily meet the criteria of a personal services contract. For this reason, it is absolutely critical that QAEs understand what constitutes a personal and non-personal contract. To help understand the difference between personal and non-personal services, it may help to understand what personal services you can contract for.

You are only authorized to contract for personal services for experts or consultants (5 USC 3109) and health care providers (10 USC 1091). There are other requirements to contract for health providers that I will not cover. I will cover in detail personal services contracts for expert or consultant services.

Personal services contracts for expert or consultant services shall not exceed 1 year. The nature of the duties must be (1) temporary (not more than 1 year); or (2) intermittent (not cumulatively more than 130 days in 1 year). A Determination and Finding (D&F) must be accomplished. The D&F must be signed by the installation commander or equivalent level. The D&F must state that (1) The duties are of a temporary or intermittent nature; (2) acquisition of the services is advantageous to the national defense; (3) DoD personnel with necessary skills are not available; (4) excepted appointment cannot be obtained; (5) a